



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

TO: Charles Lee, Acting Director, Office of Environmental Justice (“OEJ”)
Office of Enforcement and Compliance Assurance (“OECA”)

FROM: Theodore J. Kim, Legal Counsel, OEJ/OECA /s/ *Ted Kim*

DATE: April 20, 2007

RE: “Environmental Justice in the News” for the Week Ending April 20, 2007
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This memorandum summarizes select environmental justice news actions for the period beginning April 2, 2007 through the week ending April 13, 2007. The summary is limited to Lexis/Nexis searches conducted using the query: “(environment! w/2 (justice or racism or equity or disproportionate or disparate)) or (environment! w/25 minorit! or low***income) or (executive order 12898) or (civil right! w/25 environmental) or (“fair housing act” w/25 (environment! or zon!)).” Please note that articles on international or foreign-based environmental justice issues were not included.

1. **News Items.**

The following news was particularly noteworthy:

- **“Court Rejects South Coast Appeal of Power Plant CEQA Suit Option,” Inside Cal/EPA (Apr. 20, 2007).** According to the article, the California Court of Appeals for the Second District rejected the South Coast Air Quality Management District’s (“District”) attempt “to throw out a lower court’s [holding] that a rule allowing power plants to access a pollution credit reserve should be subject to environmental impact review.” The court’s decision, which was rendered on April 17, 2007, pleased environmental justice activists “who support stringent environmental review of the credit program . . . which they say protects air quality in critical areas.” A subsequent trial on this matter is expected to fuel the existing controversy over the District’s role in helping power plants to expand in areas that are already burdened by poor air quality.
- **“As Earth Day Approaches, EPA Kicks Off Major Effort to Improve Conditions,” Newsblaze (Apr. 17, 2007).** According to the article, the New England regional office of the United States Environmental

Protection Agency (“EPA”) “has launched a collaborative effort with the communities along the Mystic River, together with local environmental organizations, to address water quality issues in the Mystic Watershed.” Accordingly, EPA hopes to restore the watershed to swimmable and fishable conditions that community residents can use safely. EPA’s actions represent the continuation of work on environmental justice issues that has occurred for years for communities along the Mystic River.

- **“Pollution Task Force Sought; Board Members Present Report,” Albuquerque Journal (NM Apr. 13, 2007).** According to the article, two members of the Albuquerque-Bernalillo County Air Quality Control Board’s (“Board”) Environmental Justice Subcommittee submitted a report on April 11, 2007 that sought to address such issues as “whether communities in the county with lower-income levels or minority populations suffer disproportionately from air pollution.” Included in the report is the conclusion that “the best way to address environmental justice issues is to create a task force to study the cumulative effects of air pollution in a certain area.” The report identified barriers to the Board in meeting the communities’ environmental justice concerns. Specifically, the Board and the public have “expressed frustration with the limitations the Board has in dealing with issues like environmental justice.”
- **“Task Force Inches Toward Diversity,” Milwaukee Journal Sentinel (Apr. 12, 2007) at B5.** According to the article, the Southeastern Wisconsin Regional Planning Commission established a new task force on environmental justice that seeks to “increase minority involvement in regional planning.” Specifically, the task force will try to boost minority involvement in housing, transportation, and other significant issues in an attempt to reach people living in poverty or those populations “that historically have felt disenfranchised.” The task force will consist of fifteen members.
- **“Industry Lobbyist Faults Environmental Justice Push for More Lawsuits,” Inside EPA (Apr. 11, 2007).** According to the article, William Kovacs, Vice President of Environment and Regulatory Affairs at the United States Chamber of Commerce, “told a recent conference on environmental justice issues that communities should focus on working with industry that seeks to bring jobs to their areas rather than litigating to block construction of new facilities.” Mr. Kovacs further warned that “Democratic legislation to codify a Clinton executive order on environmental justice could enhance citizen suits, further damaging relationships between local communities and businesses.” Mr. Kovacs urged the environmental justice community to seek job creation, rather than litigation, to create better health care. Environmental justice activists rejected many of these arguments, noting that “business often seeks to break the law by emitting more pollution than is permitted, which brings disproportionate health impacts on the surrounding communities.”

- **“U.S. EPA Awards \$100,000 to Harambee House to Reduce Pollution in Two Savannah Neighborhoods,” Federal Information and News Dispatch, Inc. (Apr. 11, 2007).** According to the article, EPA awarded \$100,000 to Harambee House, “a nonprofit organization in Savannah, Georgia, for continuing work to help the Hudson Hill and Woodville neighborhoods understand and reduce local pollution.” The award is part of EPA’s Community Action for a Renewed Environment (“CARE”) program, which supports communities create and use collaborative partnerships to reduce exposure to pollution through voluntary risk reduction activities.” The CARE project builds upon a grant that EPA gave the Harambee House in 2004 as part of its Environmental Justice Collaborative Problem-Solving program.
- **“Landfill Opponents Keep Up the Fight in Morrow County,” Mansfield News Journal (OH Apr. 11, 2007) at 2.** According to the article, residents of Morrow County are opposed to Washington Environmental’s plans “to build a construction and demolition debris landfill.” The residents hoped to deliver a message to Ohio’s Governor Ted Strickland voicing their concerns. Specifically, the residents were concerned with dust emissions from the transfer station where debris will be loaded onto trucks going to the landfill. The proposed landfill is two miles from Iberia Elementary School.
- **“Lower Ark Takes Time on Lawsuit: District Evaluating Its Options During Comment Period on Aurora Contract with Reclamation,” Pueblo Chieftain (CO Apr. 8, 2007).** According to the article, the Lower Arkansas Valley Water Conservancy District (“Lower Ark”) plans to file a lawsuit against the Bureau of Reclamation (“Bureau”) related to a contract the Bureau will issue to Aurora “to store up to 10,000 acre-feet of water in excess-capacity accounts in Lake Pueblo.” Specifically, Lower Ark claims that the Bureau lacks “authority to lease any part of the Fryingpan-Arkansas Project to move water out of the Arkansas Valley, and that a full environmental impact statement is needed if a contract is issued.” In addition, Lower Ark noted that environmental justice issues, “impacts of the contract on poor or minority residents of the Lower Ark Valley[,] have not been adequately addressed.”
- **“Environmental Justice: Conference Highlights Successes, Shortcomings of Movement,” Land Letter (Apr. 5, 2007).** According to the article, the Howard University School of Law held “The State of Environmental Justice in America 2007 Conference” (“Conference”) on March 29-31, 2007. While the environmental justice movement “has led to much larger successes” and race and community economics now represent “two essential elements to any environmental debate,” speakers at the Conference acknowledged that “pollution remains intertwined with low-income and minority communities” due to “bureaucratic and economic realities that dictate where and how pollution is produced.” One

key point that the panelists stressed was that the law was needed to ensure environmental justice for all.

- **“Report: Racism Not a Factor in N.J. Superfund Site Cleanup,” Associated Press (Apr. 4, 2007).** According to the article, EPA’s Office of Inspector General (“IG”) issued a report on April 4, 2007, entitled “Environmental Justice Concerns and Communication Problems Complicated Cleaning Up Ringwood Mines/Landfill Site” (Apr. 2, 2007). The report, which investigated whether EPA “ignored ongoing problems as the site because, as many residents and environmental organizations have contended, most people living there are Ramapough Indians and poor,” found “racism was not a factor in the cleanup oversight of paint sludge dumped in the northern part of the state by automaker Ford.” The report, however, called on EPA to communicate better with the residents regarding its activities at the site. Environmentalists and some New Jersey Congressmen have criticized the report, which “did conclude that residents in the area felt that they were being treated unfairly by the EPA.” EPA did not comment on the report.
- **“Rep. Solis, National Latino, Religious, Environmental Leaders Urge Congress to Pass Bill Honoring Cesar Chavez and Public Lands,” US Fed. News (Apr. 4, 2007).** The article set forth a press release from Congresswoman Hilda L. Solis (D-CA) that urged Congress to pass the Cesar Estrada Chavez Study Act, H.R. 359, which would authorize the United States Department of Interior to “study significant lands in Chavez’s life.” According to Congresswoman Solis, Mr. Chavez’s life inspires her “daily to continue the fight for environmental justice so our children and families have a stronger, healthier future.”
- **“Suit Targets Approval of Sludge Facility; S.b. County: A Hinkley Group and the Center for Biological Diversity Turn to the Courts for Help,” Press Enterprise (CA Apr. 3, 2007) at B3.** According to the article, the Center of Biological Diversity and a group known as HelpHikley.org filed a lawsuit on March 29, 2007 based on the approval of an open-air sludge facility. The lawsuit was filed against San Bernardino County, who approved the facility in November, and Nursery Products, the operator of the proposed facility. The lawsuit alleges that the County failed to properly study the “project’s effects in its environmental review.” Specifically, opponents “fear that dust and bacteria from the site will blow onto the neighboring communities, posing health risks to residents.”
- **“Syracuse University’s Department of African American Studies Receives Major Ford Grant for ‘Gender, Environmental Justice’ Project,” US States News (Apr. 2, 2007).** The article sets forth a press release from Syracuse University announcing that the Ford Foundation “has awarded a \$223,000 grant to Syracuse University’s Department of

African American Studies (“AAS”) to support continued development of its curricular focus on gender and environmental justice. Aptly titled ‘Gender and Environmental Justice,’ the project capitalizes on AAS being the only department of its kind in the Nation to recognize the importance of environmental justice in its curriculum.” The project has four primary initiatives, which include a lecture series entitled “Black Feminism and Environmental Justice.”

- **“EPA Air Enforcement Official Vows Greater Focus on ‘Excess’ Emissions,” Inside EPA (Mar. 30, 2007).** According to the article, EPA will target excess emissions above permitted levels, which occur during malfunctions and during startup, shutdown, and maintenance (“SSM”) periods, from a variety of industrial facilities. Environmental justice activists “regularly cite environmental justice concerns over the impact that excess emissions are having on the health of traditionally poorer communities that tend to be located near refineries, chemical plants, and other facilities.” In addition, environmental groups have long raised concerns that, among other things, “many facilities in the refining sector and others are taking advantage of EPA’s excess emissions policy by using SSM periods to pollute far more than their air permits allow.”
- **“Environmental Justice Groups Seek Greater Role in Climate Debate,” Inside EPA (Mar. 30, 2007).** According to the article, environmental justice advocates want a larger role in potential climate change legislation, “charging that even Democratic lawmakers and traditional environmental groups are devoting little attention to how a future greenhouse gas emissions regime could impact low-income and minority communities.” The environmental justice advocates note that “even though environmental justice has emerged as a priority for some Democrats, the issue does not appear to be gaining traction in negotiations over climate change legislation.” The activists believe that the current proposed climate policies could increase the disproportionate burden low-income and minority communities already encounter.
- **“BUDGET: House to Debate \$23B Boost for Renewables,” Environment and Energy Daily (Mar. 28, 2007).** According to the article, the House of Representatives considered an amendment that “would dramatically increase spending for renewable energy.” The amendment would boost renewable energy programs by \$28.3 billion and fund immediate steps to “address climate change and accelerate renewable energy It would also make a ‘downpayment on environmental justice programs’ by increasing funds for repair of leaking underground storage tanks that could pollute drinking water.”
- **“N.Y State Department of Environmental Conservation Announces Grants Availability,” Daily Record of Rochester (N.Y. Mar. 28, 2007).** According to the article, the New York State Department of

Environmental Conservation announced that \$800,000 was available in 2007 state assistance funding through its Environmental Justice Community Impact Research grant program. The grants, which will range from \$2,500 to \$25,000, are available for “local groups that address environmental and/or related public health problems in the communities.”

- **“N.M. Shields Landowners from Drilling Impact,” Gas Daily (Mar. 20, 2007).** According to the article, the Surface Owner Protection Act, which New Mexico Governor Bill Richardson signed into law in early March, will require producers in the State to sign a contract with landowners prior to drilling for oil and gas beneath their properties. The law, which will take effect on July 1, 2007, has been called “the most comprehensive landowner protection bill in the United States.” The Bill has earned the support of environmental justice groups, “because it promotes the interest of low-income and minority individuals.” Specifically, the Bill “would extend additional protections to minority ranchers in the northwest and northern parts of New Mexico, which are traditionally Hispanic Regions.”

2. **Recent Litigation.**

- **In re Southern Nuclear Operating Co, No. 52-011-ESP, 2007 NRC LEXIS 30 (Nuclear Regulatory Commission March 12, 2007).** The Nuclear Regulatory Commission’s Atomic Safety and Licensing Board Panel (“Panel”) held that the petitioners in this case had standing to intervene and challenge Southern Nuclear Operating Company’s (“SNC”) petition for an early site permit at the Vogtle Electric Generating Plant. The petitioners were composed of five organizations: The Center for a Sustainable Coast, Savannah Riverkeeper, the Southern Alliance for Clean Energy, the Atlanta Woman’s Action for New Directions, and the Blue Ridge Environmental Defense League. In addition, the Panel outlined certain administrative rulings. With regard to environmental justice, the Panel addressed SNC’s Environmental Report (“ER”), which the petitioners described as “inadequate to satisfy to the [National Environmental Policy Act (“NEPA”)] because it fails provide a thorough analysis of the disparate environmental impacts of the project on the minority and low-income communities residing in close proximity to the site. The ER fails to consider factors particular to those communities which will magnify the environmental impacts of the proposed reactors in a way that is both disparate and significant. . . . In addition, the ER fails to address the fact that cancer rates in the minority low-income communities surrounding Plant Vogtle are already higher than for the general population, and therefore that those communities are more vulnerable to the adverse impacts of additional radiological and chemical pollution in the environment. Finally, the ER fails to address disparate impacts on the minority and low-income communities during a radiological emergency and evacuation.” In support, the petitioners asserted that the ER failed to

adequately discuss three adverse impacts that fall disproportionately on the low-income and minority populations that the ER acknowledges surround the Vogtle facilities, which include the area's high cancer rates and the effects of eating chemically-laden fish that the residents catch. The Panel, however, found that the petitioners failed to meet the two necessary requirements to implicate environmental justice scrutiny, which were: (1) support must exist "regarding the alleged existence of adverse impacts or harm on the physical or human environment;" and (2) support must exist that "these purported adverse impacts could disproportionately affect poor or minority communities in the vicinity of the facility at issue." The Panel concluded that the petitioners "have not provided sufficient relevant support in any of their three environmental justice arguments to show 'some significant link between the claimed deficiency and either the health and safety of the public or the environment.'"

3. Regulatory/Legislative/Policy.

The following items were most noteworthy:

A. Federal Congressional Bills and Matters.

- **House Resolution 1602, "Hurricanes Katrina and Rita Environmental Justice Act of 2007," introduced on March 20, 2007 by Congressman William J. Jefferson (D-LA). *Status: Referred to House Committee on Energy and Commerce and House Committee on Natural Resources on March 20, 2007.*** This Bill seeks to ensure environmental justice in the areas that Hurricanes Katrina and Rita affected. The Bill requires the head of each federal agency to make "achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority, low-income populations that are rural or urban in the Hurricanes Katrina and Rita affected area." It creates a Hurricanes Katrina and Rita Interagency Environmental Justice Working Group as well and sets forth its duties. In addition, the Bill calls for each agency to develop an agency-wide environmental justice strategy. The Bill also establishes a Federal Hurricanes Katrina and Rita Environmental Justice Advisory Committee and specifies its membership.
- **House Resolution 1805, "Strengthening Public Health Protections in Major Disasters and Emergencies Act of 2007," introduced on March 29, 2007 by Congressman William J. Jefferson (D-LA). *Status: Referred to House Committee on Energy and Commerce and House Committee on Transportation and Infrastructure on March 29, 2007.*** The Bill amends the Robert T. Stafford Disaster Relief and Emergency Assistance Act "to provide for the health and safety of certain volunteers and workers in disaster areas, and for other purposes." Included among

the Bill's provisions is the preparation of a report on disaster area health and environmental protection and monitoring. One of the individuals who will prepare this report should have expertise in environmental justice.

- **Senate Bill 1068, “Healthy Communities Act of 2007,” introduced on March 29, 2007 by Senator Barack Obama (D-IL). *Status: Referred to Senate Committee on Health, Education, Labor, and Pensions on March 29, 2007.*** Based on the findings that “[m]inority Americans are at greater risk of exposure to environmental toxins. Research has shown that 3 of every 5 individuals of African-American or Latino background live in communities with 1 or more toxic waste sites. More than 15,000,000 African-Americans, more than 8,000,000 Hispanics, and about 50 percent of Asian and Pacific Islanders and Native Americans are living in communities with 1 or more abandoned or uncontrolled toxic waste sites[; and] . . . [c]ommunities with existing incinerators are significantly more likely to have a large percentage of minorities. Communities where incinerators are proposed to be located have minority populations that are 60 percent higher and property values 35 percent lower than other communities,” the Bill seeks to promote healthy communities. Among other things, the Bill establishes an independent, 5-year Advisory Committee on Environmental Health (“Committee”), which shall have one member with practical experience in environmental justice. The Committee will review environmental health data and studies to “assess the impact of Federal laws, policies, programs, and practices on environmental health and environmental justice . . . [and] identify and recommend ways to [among other things] . . . prevent or mitigate harm from Federal policies and federally operated or supported programs and practices, that may adversely affect environmental health and environmental justice; [and] increase coordination and integration of interagency environmental health and environmental justice.” The Bill also calls for the Committee to collaborate with such entities as the Federal Interagency Working Group on Environmental Justice and the National Environmental Justice Advisory Council.
- No noteworthy “*Miscellaneous House and Senate Congressional Record Mentions of Environmental Justice*” were identified for this time period.
- **Federal Register Notices.**
 - **TVA, Final Environmental Impact Statement--Nolichucky Reservoir Flood Remediation Project, 72 Fed. Reg. 19,750 (Apr. 19, 2007).** The Tennessee Valley Authority (“TVA”) will adopt “Alternative A--No Action, the preferred alternative identified in its Final Environmental Impact Statement (“EIS”), Nolichucky Reservoir Flood Remediation Project. In implementing Alternative A, TVA would continue to provide updated flood level information to local agencies and individuals.

This would not preclude TVA working with individual landowners to address problems in the future. TVA would take no other action to address the impacts of flooding of private land and property around Nolichucky Reservoir.” EPA requested a more detailed analysis of the potential impacts of the preferred alternative on low-income and minority populations. The environmental justice analysis in the EIS, which was based on relatively large census tracts, concluded that the action alternatives would not result in disproportionate impacts on minority and low-income populations. The EIS concluded that “[d]ue to the low percentage of minority populations, the low poverty level in much of the area, and the scattered location of housing in most of the area, no disproportionate effect on minority or low-income populations is anticipated.”

- **DOD, Notice of Availability of the Draft Environmental Impact Statement (“DEIS”) for the Base Realignment and Closure (BRAC) 05 Realignment and Transformation Actions at Fort Benning, GA, 72 Fed. Reg. 19,474 (Apr. 18, 2007).** The United States Army announced the availability of a Draft EIS (“DEIS”), which evaluated the potential environmental and socioeconomic impacts of transformation activities at Fort Benning, Georgia. Comments on the DEIS, which looked at environmental justice impacts, are due 45 days after the publication date of the notice of availability.
- **EPA, Exemption Under the Federal Insecticide, Fungicide, and Rodenticide Act for Certain Plant-Incorporated Protectants Derived From Plant Viral Coat Protein Gene(s) (PVCP-PIPs); Supplemental Proposal, 72 Fed. Reg. 19,590 (Apr. 18, 2007).** EPA proposed to exempt plant-incorporated protectants derived from plant viral coat protein genes (“PVCP-PIPs”), when the PVCP-PIP meets certain criteria, from Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”) requirements. EPA proposes this exemption, because it believes that the PVCP-PIPs covered by this exemption should not be subject to FIFRA to carry out its purposes. EPA considered environmental justice issues pertaining to this action’s potential impacts on the environmental and health conditions in low-income and minority communities. EPA must consider the potential for differential impacts on sensitive sub-populations. Accordingly, EPA considered available information on the sensitivities of subgroups related to the exemptions and concluded that no subgroup would be differentially affected. Comments are due by July 17, 2007.
- **EPA, National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries, 72 Fed. Reg. 19,150 (Apr. 17, 2007).** EPA proposed “amendments to the national emission standards for hazardous air pollutants for iron and steel

foundries. The proposed amendments add alternative compliance options for cupolas at existing foundries and clarify several provisions to increase operational flexibility and improve understanding of the final rule requirements.” Comments on the proposal are due by May 17, 2007, or June 1, 2007, depending on whether a public hearing is requested by April 27, 2007. EPA determined that the proposed amendments will not “have disproportionately high and adverse human health or environmental effects on minority or low-income populations, because it does not affect the level of protection provided to human health or the environment. These proposed amendments do not relax the control measures on sources regulated by the rule and, therefore, will not cause emissions increases from these sources.”

— **EPA, Request for Nominations to the Children's Health Protection Advisory Committee (“CHPAC”), 72 Fed. Reg. 19,200 (Apr. 17, 2007).** EPA announced that it seeks nominations to fill vacancies on its Children's Health Protection Advisory Committee (“CHPAC”). In particular, EPA seeks qualified senior-level decisionmakers from diverse sectors throughout the United States for the appointments. EPA encourages interested applicants to send their resumes and qualifications as soon as possible. Nominees should have varied experience, including in environmental justice.

— **HHS, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry, 72 Fed. Reg. 19,002 (Apr. 16, 2007).** The Centers for Disease Control and Prevention (“CDC”) of the United States Department of Health and Human Service (“HHS”) announced a meeting on May 16, 2007 in Atlanta, Georgia. The notice announced that the “meeting agenda will include an update on [National Center for Environmental Health (“NCEH”)/Agency for Toxic Substances and Disease Registry (“ATSDR”)] Environmental Justice Web site development, a discussion on the Center's Environmental Justice oriented inventory, a review and selection of projects for further discussion, and an update on the Office of Tribal Affairs.”

— **DOT, Notice of Final Title VI Circular, 72 Fed. Reg. 18,732 (Apr. 13, 2007).** The Federal Transit Administration (“FTA”) of the United States Department of Transportation (“DOT”) “has revised its Title VI Circular 4702.1 and is publishing a new Circular 4702.1A, “Title VI and Title VI--Dependent Guidelines for Federal Transit Administration Recipients.”” The circular provides recipients and subrecipients of FTA financial assistance with guidance and instructions necessary to carry out DOT’s Title VI regulations and to integrate into their programs and activities considerations expressed in DOT’s Order on Environmental Justice (Order 5610.2), and Policy Guidance Concerning

Recipients' Responsibilities to Limited English Proficient ("LEP") Persons. The guidance takes effect on May 14, 2007. Among other things, the final circular fulfills DOT Order 5610.2, which articulates that "each operating administration in DOT integrates the considerations of Executive Order 12898 into the programs, policies, and activities that they administer or implement. Order 5610.2 is not solely internal to DOT and, in that FTA has integrated environmental justice considerations into its general grant program. The reformatted circular's guidance to recipients to identify and address, as appropriate, adverse and disproportionately high effects of their policies, programs, and activities on low-income populations as well as minority populations does not introduce low-income people as a protected class under Title VI. The final circular's reference to environmental justice principles and concepts reinforces considerations already embodied in Title VI and NEPA and does not create new mandates."

— **DOT, Environmental Impact Statement: Clackamas County, Oregon, 72 Fed. Reg. 17,594 (Apr. 9, 2007).** DOT's Federal Highway Administration announced its intent to prepare an EIS "to assess the impacts of a proposed transportation project on Harmony Road in Clackamas County, Oregon. . . . The project will consider alignment and improvement options on SE Harmony Road and intersections at SE Railroad Avenue/SE Linwood Avenue and SE Lake Road/SE International Way. In addition, the project study will consider alignment options for the extension of SE Sunnybrook Boulevard west of SE 82nd Avenue and its western terminus. A significant project consideration is grade separation of the road and the Union Pacific rail line at the Harmony Road/Linwood Avenue/Railroad Avenue intersection." Environmental justice represents one potential area of impact.

— **DOD, Intent To Prepare a Draft Environmental Impact Statement ("DEIS") for the Construction of Western Wake Regional Wastewater Management Facilities, Regional Wastewater Pumping, Conveyance, Treatment, and Discharge Facilities To Serve the Towns of Apex, Cary, Holly Springs and Morrisville, as well as the Wake County Portion of Research Triangle Park (Service Area), NC, 72 Fed. Reg. 17,525 (Apr. 9, 2007).** The United States Army Corps of Engineers, Wilmington District, received a request to construct "Western Wake Regional Wastewater Management Facilities. This project will be a regional wastewater pumping, conveyance, treatment, and discharge project to serve the Towns of Apex, Cary, Holly Springs and Morrisville, as well as the Wake County portion of Research Triangle Park (service area), [North Carolina]."

- Comments on the project, which will consider environmental justice concerns, are due on April 30, 2007.
- **DOI, North Sonoma County Agricultural Reuse Project (“NSCARP”) – Sonoma County, CA, 72 Fed. Reg. 14,612 (Mar. 28, 2007).** The United States Department of Interior’s (“DOI”) Bureau of Reclamation (“Reclamation”) announced the availability of a Draft Environmental Impact Statement/Environmental Impact Report (“EIS/EIR”) for the NSCARP. Included in the Draft EIS/EIR are four alternatives, including a no action alternative, “that include numerous features that would create an agricultural irrigation system comprised of 19 recycled water storage reservoirs totaling about 11,200 acre-feet in storage capacity.” Comments on the Draft EIS/EIR, which, among other things, address the impacts of project construction and operation on environmental justice, are due by May 18, 2007.
 - **DOI, Folsom Dam Safety and Flood Damage Reduction (“DS/FDR”) Action – Sacramento, El Dorado, and Placer Counties, CA, 72 Fed. Reg. 14,611 (Mar. 28, 2007).** DOI’s Reclamation announced that it had jointly prepared a Final EIS/EIR for the Folsom DS/FDR Action. The Folsom DS/FDR Action “includes features that address Reclamation’s DS objectives and the Corps’ FDR objectives jointly as well as features or increments that exclusively address DS, security, or FDR objectives and would be constructed by the respective agencies. The Final EIS/EIR contains responses to comments received on the Draft EIS/EIR.” Comments on the Folsom DS/FDR Final EIS/EIR, which, among other things, address the impacts of project construction on environmental justice, are due by April 30, 2007.
 - **DOE, Notice of Intent to Prepare a Supplemental Impact Statement for Surplus Plutonium Disposition at the Savannah River Site, 72 Fed. Reg. 14,543 (Mar. 28, 2007).** The United States Department of Energy (“DOE”) announced its intention to prepare a Supplemental Environmental Impact Statement (“SEIS”) “to evaluate the potential environmental impacts of plutonium disposition capabilities that would be constructed and operated at the Savannah Rivers Site near Aiken, South Carolina.” DOE took this action “to reduce the threat of nuclear weapons proliferation worldwide by disposing of surplus plutonium in the United States in a safe and environmentally sound manner.” Comments on the SEIS are due by May 29, 2007. Included among the potential environmental issues for analysis is environmental justice.
 - **EPA, Revisions to the Definition of Solid Waste, 72 Fed. Reg. 14,172 (Mar. 26, 2007).** EPA published a supplemental proposal that would “revise the definition of solid waste to exclude certain hazardous secondary materials from regulation under Subtitle C of

the Resource Conservation and Recovery Act (“RCRA”).” The proposal, which seeks comments by May 25, 2007, encourages safe, environmental sound recycling and resource conservation. With regard to environmental justice, EPA noted that the proposal would “streamline hazardous waste management requirements for certain hazardous secondary materials sent for recycling. . . . Specific impacts on low-income or minority communities, therefore, are undetermined. Overall, no disproportionate impacts to minorities or low-income communities are expected.”

B. State Congressional Bills and Matters.

- **California, Assembly Bill 568, introduced on February 21, 2007 by Assemblywoman Betty Karnette (D-District 54). *Status: Rereferred to Assembly Committee on Local Government on April 19, 2007.*** The Bill seeks to establish a Port Community Advisory Committee to “respond to specified actions and impacts on harbor area communities.” The Bill specifies the committee’s duties and provides for funding. The Bill sets forth that funds may be used to, among other things, hire an environmental justice program coordinator.
- **California, Assembly Bill 1107, introduced on February 23, 2007 by Congressman Juan Arambula (D-District 31). *Status: Referred to Assembly Committee on Jobs, Economic Development, and the Economy on April 12, 2007.*** The Bill amends Section 65072 of, and adds Section 15571 to, the Government Code relating to transportation. Specifically, the Bill requires the establishment of an advisory committee to help assess the shipping needs and practices of small businesses and microenterprises. The committee shall, among other things, assess statewide and regional opportunities for small businesses and microenterprises “to participate in the State’s goods movement logistics sector, including a review of how these entities may assist in the implementation of environmental justice policies of goods movement.” The committee shall prepare a report to the Governor and the Legislature by January 1, 2009.
- **California, Assembly Bill 1358, introduced on February 23, 2007 by Congressman Mark Leno (D-District 13). *Status: Rereferred to Assembly Committee on Local Government on April 10, 2007.*** The Bill amends Sections 65050.2 and 65302 of the Government Code, relating to planning. Specifically, the Bill establishes in the Office of the Governor the Office of Planning and Research “with duties that include developing and adopting guidelines for the preparation of and content of mandatory elements required in city and county general plans.” Among other things, the guidelines shall address environmental justice matters.

- **California, Senate Bill 240, introduced on February 14, 2007 by Senator Dean Florez (D-District 16). Status: Rereferred to Senate Transportation and Housing Committee on April 18, 2007.** The Bill seeks to address the finding that residents of the San Joaquin Valley “suffer some of the worst air quality in the world[, which] poses a significant threat to public health, the environment, and the economy of the valley.” Of particular note is the fact that the Bill provides at least \$10 million to “mitigate the impacts of air pollution on public health and the environment in disproportionately impacted environmental justice communities in the San Joaquin Valley. The district board shall convene an environmental justice advisory committee, selected from a list given to the board by environmental justice groups from the San Joaquin Valley, to recommend the neighborhoods in the district that constitute environmental justice communities, and how to expend funds within these communities.”
- **California Senate Bill 412, introduced on February 21, 2007 by Senator Joe Simitian (D-District 11). Status: Rereferred to Senate Committee on Energy, Utilities, and Communications on April 19, 2007.** The Bill would enact the Liquefied Natural Gas Terminal Evaluation Act and “would require the [State Energy Resources Conservation and Development Commission (“Commission”)] to make a liquefied natural gas (“LNG”) needs assessment study that assesses demand and supply for natural gas and alternatives to natural gas to meet energy demands.” Among its provisions, the Bill further specifies that the “Secretary for Environmental Protection certifies that the project contains reasonable mitigation measures to offset impacts to low-income and minority communities that would be affected by the project.”
- **California, Senate Bill 826, introduced on February 23, 2007 by Senator Alex Padilla (D-District 20). Status: Set for Hearing on April 30, 2007.** The Bill requires the California Integrated Waste Management Board in the Resources Agency to “adopt minimum standards to identify and mitigate impacts in disproportionately affected communities in which solid waste facilities are located, consistent with environmental justice, including providing special mitigation measures.” The Bill provides for special mitigation measures to “reduce or eliminate any disproportionate impacts from solid waste facilities in disproportionately affected communities.”
- **California, Senate Bill 1001, introduced on February 23, 2007 by Senator Don Perata (D-District 9). Status: Rereferred to Senate Committee on Environmental Quality on April 17, 2007.** The Bill would revise provisions of the Porter-Cologne Water Quality Control Act, which “establishes 9 regions for the purposes of the Act, each governed by a California regional water quality control board of 9 members appointed by the Governor, with prescribed experience or associations.” Specifically,

the Bill would “establish regional boards of 5 members, with positions for members with a degree or prescribed experience in biological science, public sector finance, urban planning, public health, and environmental justice.” With regard to the member with environmental justice experience, the Bill further specifies that the person have “preferred knowledge about the impact of water quality on low-income communities.”

- **Colorado, Senate Bill 242, introduced on March 26, 2007 by Senator Peter C. Groff (D-District 33). Status: *Passed Unamended to Senate Committee of the Whole on April 4, 2007.*** The Bill concerns the statutory creation of the existing Office of Health Disparities in the Department of Public Health and Environment. It specifies the duties and powers of the office, “including administering the health disparities grant program and eliminating racial, ethnic, and rural health disparities in Colorado by fostering systems change and collaboration and education with multiple sectors impacting minority health with input from multicultural representatives.”
- **Connecticut, Senate Bill 1330, introduced on February 22, 2007 by Energy and Technology Committee. Status: *Referred to Committee on Environment on April 4, 2007.*** The Bill, which concerns environmental justice, seeks to “reduce the incidence of pollution in communities that are already overburdened by environmental pollution.” The Bill defines “environmental justice” as “the equal protection and meaningful involvement of all people in the development, implementation, and enforcement of environmental laws, regulations, and policies” and calls on the Department of Environmental Protection, among others, to adopt regulations that describe its procedures for considering environmental justice in granting licenses, permits, or authorizations.
- **Georgia, Senate Resolution 598, introduced on April 11, 2007 by Senator Mable Thomas (D-55). Status: *Senate Read and Referred on April 11, 2007.*** The Resolution creates the Joint Nuclear Plant Vogtle Environmental Justice Issues Study Committee (“Committee”). Among other things, the resolution determined that the community surrounding Plant Vogtle has an exceptionally high percentage of African-American and low-income households. In addition, the Resolution found that an Environmental Impact Statement “acknowledged that a significant accident would most likely disproportionately affect minority or low-income communities due to the demographics and prevailing wind in the area . . . and, therefore, a significant accident at the site could have a similar disparate impact on these low-income and minority communities.” Accordingly, the Resolution created the Committee “to study negative impacts on the surrounding community of Plant Vogtle, with added focus on low-income and minority populations, and recommend how these

impacts can be alleviated.” The Committee shall be composed of seven members of the House of Representatives and three Senators.

- **Illinois, House Bill 1467, introduced on February 21, 2007 by Congressman Robert Rita (D-District 28). Status: Placed on Calendar Order of Third Reading on March 27, 2007. Short Debate.** The Bill regards Illinois’ Open Dumping Cleanup Program. Specifically, it notes that if open dumping or a condemned structure “poses a threat to the public health or the environment, the State may take “whatever preventive or corrective action is necessary or appropriate to end that threat.” Prior to taking such action, however, the State shall consider, among other things, whether the open dumping “occurred in an environmental justice area.”
- **Maryland, House Bill 1034, introduced on February 9, 2007 by Congressman Nathaniel T. Oaks (D-District 41). Status: Favorable Report by Senate Finance Committee on April 6, 2007.** The Bill requires the Secretary of Health and Mental Hygiene to establish a specified pilot program subject to the availability and appropriation of specified funding and requires that a specified pilot program provide funding and technical assistance to specified eligible entities to prepare specified health impact assessments. The Bill also establishes that applications for specified grants include specific information. A planning and prioritizing council will also be established through the Bill, which will include a member from “vulnerable groups such as children, the elderly, disabled, and minority ethnic groups that are not actively involved in democratic or decision-making processes.”
- **Massachusetts, Senate Bill 2184, introduced on April 10, 2007 by Senator Dianne Wilkerson (D-District 2). Status: House Concurred on April 10, 2007.** The Bill calls for the development of statewide policies to promote environmental justice in the Commonwealth and “protect and regulate the use of areas of critical environmental justice concern in the Commonwealth.” Among other things, the Bill defines “environmental justice” as the “equal protection and meaningful involvement of all people with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies and the equitable distribution of environmental benefits.” It creates the policy position of Director of Environmental Justice and Brownfields Redevelopment within the Office of the Secretary, who will serve as the initial point of contact on all environmental justice matters. The Bill will provide environmental justice training and develop fact sheets. The Bill will also direct the Department of Environmental Protection to, among other things, “prioritize neighborhoods where environmental justice populations reside when selecting sectors and facilities for inspection, monitoring, prosecuting non-compliance, providing compliance assistance and allocating resources.”

- **North Carolina, House Bill 1115, introduced on March 27, 2007 by Congresswoman Carolyn H. Justice (R-District 16). Status: Referred to House Committee on Environment and Natural Resources on March 28, 2007.** The Bill codifies and makes permanent the “swine farm animal waste management performance standards that general assembly enacted in 1998, to assist farmers with the early adoption of innovative swine waste management systems.” A Task Force for Innovative Swine Waste Management Systems was created, which will include, among others, the Director of the Environmental Justice Network or the Director’s Designee.
- **North Carolina, House Bill 1849, introduced on April 18, 2007 by Congressman Garland E. Pierce (D-District 48). Status: Referred to House Committee on Appropriations on April 19, 2007.** The Bill would establish the Office of Environmental Justice within the Department of Administration. The Office would be managed by a Director that the Governor appoints. The Office of Environmental Justice would work with all state agencies and ensure that “governmental actions substantially affecting human health or the environment operate without discrimination,” provide information for meaningful participation in the regulatory process, respond to allegations of environmental injustice meaningfully, provide a link to enhance communication and information between the community, government, and industries, and increase awareness within minority and low-income communities. The Office of Environmental Justice was funded at \$250,000 for Fiscal Year 2007-2008.
- **South Carolina, House Bill 3933, introduced on April 18, 2007 by Congressman Harold J. Mitchell, Jr. (D-District 31). Status: Introduced.** The Bill would create a multi-agency advisory committee to the South Carolina Department of Health and Environmental Control to promote environmental justice in the State. The committee would be known as the South Carolina Environmental Justice Advisory Committee, which, among other things, will make recommendations “regarding an action that should be taken to address an environmental justice issue consistent with existing statutory and regulatory policy.” The Bill defined environmental justice as “the fair treatment and meaningful involvement of a person regardless of his race, color, ethnicity, gender, religion, income, or education level with respect to the development, implementation, or enforcement of a law, regulation, or policy that impact the person’s environmental health.” The Bill specified that the Committee meet annually and provide an annual report.
- **State Regulatory Alerts.**

— No noteworthy “*State Regulatory Alerts*” were identified for this time period.